



# Direction Decision

by Sue Arnott FIPROW

an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs

Decision date: 2 May 2017

---

**Ref: FPS/Z4718/14D/6**

**Representation on behalf of Kirklees Bridleway Group<sup>1</sup>**

**KIRKLEES METROPOLITAN BOROUGH COUNCIL**

**Application to add/upgrade a footpath to a bridleway from Deer Hill End Road, Meltham, to Chain Road, Marsden (file ref. 34)**

- The representation is made under Paragraph 3(2) of Schedule 14 of the Wildlife and Countryside Act 1981 seeking a direction to be given to Kirklees Metropolitan Borough Council to determine an application for an Order made under Section 53(5) of that Act.
- The representation, dated 13 March 2017, is made by Kirklees Bridleways Group.
- The certificate under Paragraph 2(3) of Schedule 14 is dated 18 April 1997.
- The Council was notified of the representation on 15 March 2017 and submitted its response on 20 March 2017.

**Summary of Decision: The Council is directed to determine the above-mentioned application.**

---

## Reasons

1. Authorities are required to investigate applications as soon as reasonably practicable and, after consulting the relevant district and parish councils, to decide whether to make an order on the basis of the evidence discovered. Applicants have the right to ask the Secretary of State to direct a surveying authority to reach a decision on an application if no decision has been reached within twelve months of the authority's receipt of certification that the applicant has served notice of the application on affected landowners and occupiers. The Secretary of State, in considering whether, in response to such a request, to direct an authority to determine an application for an order within a specified period, will take into account any statement made by the authority setting out its priorities for bringing and keeping the definitive map up to date, the reasonableness of such priorities, any actions already taken by the authority or expressed intentions of further action on the application in question, the circumstances of the case and any views expressed by the applicant<sup>2</sup>.
2. In this case the application was submitted some twenty years ago. Whilst Kirklees Bridleway Group accepts the resource constraints within which the Council must operate, it does not consider this a reasonable timeframe for the determination of an application. The evidence provided by the original claimants is now twenty years older and the Group submits that if the application is not determined promptly, some witnesses may no longer be available to provide confirmation of their use if necessary.

---

<sup>1</sup> By letter dated 2 February 2017 the original applicant, the South Pennines Packhorse Trails Trust, appointed Kirklees Bridleways Group to act as its Agent.

<sup>2</sup> Rights of Way Circular 1/09 Version 2, October 2009: Department for Environment, Food and Rural Affairs.

---

3. Further, attention is drawn to the nature of the route claimed, it being an important off-road link between the villages of Marsden and Meltham that will enable riders to avoid the 60 mph Chain Road.
4. Kirklees Council recognises that special circumstances deserve priority and that it is not unusual for the public to be deprived of an alleged public right of way whilst an application is awaiting determination. Nevertheless it acknowledges the Group's concerns. However the Council has a substantial backlog of such applications and prioritises cases according to a number of priority themes; these include whether the path is under threat, whether the route will provide a range of public benefits and also the age of both applications and witnesses. Its priority matrix scoring sheet was agreed, following consultation, in 2012.
5. At present this application is scored at 12 and is listed as priority case 10 on the list of outstanding definitive map modification order applications awaiting determination. The Council reports that work has now commenced on investigating this case in preparation for a report to its delegated committee for a decision. It is hoped this will be within 12 months.
6. An applicant's right to seek a direction from the Secretary of State gives rise to the expectation of a determination of that application within 12 months under normal circumstances. In this case, 20 years have already passed since the application was submitted. Although work has now started, it is appreciated that the Council will require some time to complete its investigation and make a decision on the application.
7. In the circumstances I have decided that there is a case for setting a date by which time the application should be determined and consider it appropriate to allow a further 6 months for a decision to be reached.

### **Direction**

On behalf of the Secretary of State for Environment, Food and Rural Affairs and pursuant to Paragraph 3(2) of Schedule 14 of the Wildlife and Countryside Act 1981, **I HEREBY DIRECT** the Kirklees Metropolitan Borough Council to determine the above-mentioned application not later than 31 December 2017.

*Sue Arnott*

**Inspector**